

2. Mortality/Morbidity Reviews/Reports for all suicides at Lancaster County Prison from 2007 to the time of Patrick J. Kanney's death;²
3. Lindsey Hayes' 2011 Report regarding Lancaster County Prison.³

BY THE COURT:

/s/ Henry S. Perkin

HENRY S. PERKIN,
United States Magistrate Judge

information.” *Id.* (quoting *Dowling v. American Hawaii Cruises, Inc.*, 971 F.2d 423, 425-26 (9th Cir.1992)). As Plaintiffs note in their Reply brief, the Third Circuit has declined to recognize the “self-critical analysis privilege.” Reply, pp. 1-2 (citing *Alaska Elec. Pension Fund v. Pharmacia Corp.*, 544 F.3d 342, 351 n.12 (3d Cir. 2009) (observing in footnote that the privilege “has never been recognized by this Court and we see no reason to recognize it now.”); *Armstrong v Dwyer*, 155 F.3d 211, 214 (3d Cir. 1998)). Further, Federal Rule of Civil Procedure 26 requires that discovery be limited to any non-privileged matter that is:

relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

Fed. R. Civ. P. 26(b)(1). Plaintiffs' request is reasonable, relevant to Plaintiffs' case and within the scope of discovery. Thus, the Court finds no argument by PrimeCare outweighing the Plaintiffs' need to obtain the requested documents and Plaintiffs' motion to compel production of the mortality review/report of Patrick J. Kanney's death is granted.

² Plaintiffs revised this request, which originally sought documents dating from 1998 to the present. Based on the above analysis regarding production of the Mortality/Morbidity Review/Report of Patrick J. Kanney's death, PrimeCare shall also produce the Mortality/Morbidity Reviews/Reports for all suicides at Lancaster County prison dating from 2006 up to and including Patrick J. Kanney's death. The relevant reviews/reports are those occurring during the time that PrimeCare provided health care at the Lancaster County Prison.

³ PrimeCare shall also produce the Lindsey Hayes 2011 Report based on the above analysis. The report is within the scope of discovery and there is no federal privilege precluding its production. PrimeCare has not provided the Court with the NonDisclosure Agreement between Mr. Hayes and PrimeCare, the terms of the Agreement or the subjects covered by the Agreement. PrimeCare has also not provided any case law supporting its claim that the report is privileged based on the Agreement.